

STATE OF NEW HAMPSHIRE

PROBATE COURT

PROCEDURE BULLETIN 17

RELATIVE TO: Reopening Estates for Newly Discovered Assets

This procedure bulletin is prepared for informational purposes in processing case files. It is not intended to provide parties with legal advice.

When there are newly discovered assets in an estate previously closed by waiver of administration, the register will issue a new certificate of appointment upon request. The appropriate certificate fee for this request will be assessed. For all other estates, including those estates closed by summary administration however, if newly discovered assets require a closed estate to be reopened, the following procedures will apply.

- (1) If the same fiduciary who was appointed in the initial petition seeks to reopen the estate, that fiduciary will file a motion to reopen (bring forward). If a new fiduciary seeks to be appointed, a petition for estate administration (Form NHJB-2145-P) or a petition for small estate administration (Form NHJB-2141-P) must be filed with the motion.
- (2) The fiduciary will file a motion to reopen (bring forward) stating the reasons for reopening the estate and listing the item(s) to be probated. The fiduciary will also include with the motion:
 - (a) The appropriate list of legatees and devisees or list of heirs at law form (Forms NHJB-2150-P or NHJB-2151-P as appropriate);
 - (b) If necessary, an appointment of resident agent form (Form NHJB-2120-P);
 - (c) When the estate is taxable, Department of Revenue Administration (DRA) forms AU-101 (List of Legatees) and AU-101-A (List of Heirs-At-Law) as appropriate (in addition, the DRA will be included as an interested party under these circumstances); and,
 - (d) Rule 21 certification of copies to parties form (Form NHJB-2148-P).
- (3) The appropriate filing fee for a motion to reopen (bring forward) will be paid pursuant to Probate Court Rule 169.
- (4) A bond, as ordered by the court, will be signed and filed by the fiduciary.

- (5) New letters of appointment will be issued. There will be no charge for the first copy.
- (6) If the newly discovered asset is cash, stock, or other item of certain value, an inventory will not be required. However, if the newly discovered asset is an item of real or personal property of uncertain value, an inventory will be required. When an inventory is necessary, it will be filed within 90 days of the granting of the motion to reopen (bring forward).
- (7) In lieu of an account, a motion for order of distribution form (Form NHJB-2131-P) will be filed within 60 days of the granting of the motion to reopen (bring forward) - except that, in estates where an inventory is required the motion for distribution will be filed within 60 days of the inventory due date. A schedule detailing the administrative expenses of the estate since reopening will be attached to the motion for distribution.
- (8) In estates taxable in New Hampshire, no motion for distribution will be granted until the court receives either the tax certification letter or a letter of no tax due from the N.H. Department of Revenue Administration. For the purposes of this paragraph, a taxable estate is one that is taxable under one or both of the following statutorily created taxation schemes:
 - (a) Where the decedent passed away prior to January 1, 2003, the estate may be taxable pursuant to RSA Chapter 86, (Taxation of Legacies and Successions repealed by 2002, 232:14, II, effective January 1, 2003).
 - (b) Where the decedent left an estate subject to an estate tax under the provisions of the United States Internal Revenue Code of 1986, as amended, and who had property within this state, an estate tax is imposed pursuant to RSA 87:1 (the so-called "state estate tax" or "sponge" tax).
- (9) The fiduciary will file receipts for distribution within 30 days of the granting of the motion for distribution, and no estate will be closed until all receipts are filed.
- (10) If the motion for distribution or the receipts are not timely filed, a show cause may be issued.

Last Reviewed: August 1, 2007

_____/s/ David D. King
David D. King
Administrative Judge of Probate Court

History:

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